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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/825,585	04/01/1997	TAKEHIRO YOSHIDA	35.C10516-CO	1146

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FITZPATRICK CELLA HARPER & SCINTO
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NEW YORK, NY 10112

EXAMINER

ENG, GEORGE

ART UNIT	PAPER NUMBER
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2643

DATE MAILED: 07/14/2004

58

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

08/825,585

Applicant(s)

YOSHIDA, TAKEHIRO

Examiner

George Eng

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 12 and 14-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 12 and 14-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. This Office action is in response to the amendment filed 5/4/2004 (paper no. 57).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 12 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinoshita et al. (US PAT. 5,216,517 hereinafter Kinoshita) in view of Ueno (US PAT. 5,661,568).

Regarding claim 1, Kinoshita discloses a data communication apparatus (figure 1) adapted to execute a plurality kind of facsimile protocols, i.e., G3 or G4 mode, comprising a network controller including first means, i.e., a call signal detector circuit, for detecting a call signal from a communication line (col. 5 lines 41-54 and col. 14 line 67 through col. 15 line 3) and second means, i.e., an ID detector detection circuit, for detecting caller subscriber number, i.e., ID information, for identifying a calling station from the communication line before a start of communication with the calling station (col. 15 lines 4-9), a memory (44, figure 1) for storing ID information for identifying the calling station (col. 6 lines 36-40), and a control circuit (11,

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figure 1) for causing communication to perform usual incoming signal processing operation (303, figure 8), when the ID detector circuit cannot detect the ID information (col. 15 lines 10-14) so that one of ordinary skill in the art would recognize Kinoshita teaches to use a default protocol when the ID detector cannot detect the ID information in order to perform usual incoming signal processing operation. In addition, Kinoshita also teaches the control circuit for causing communication to perform incoming-signal processing operation corresponding to ID information detected by the ID detector circuit with the detected ID information (col. 16 lines 17-29). Kinoshita differs from the claimed invention in not specifically teaching to store facsimile protocol information for indicating a facsimile protocol used for communication with the calling station in correspondence with the ID information so that the control circuit adapted to cause communication based on the facsimile protocol corresponding to the ID information. However, Sawada teaches a method for controlling communication based on facsimile protocol corresponding to the ID information comprising a memory for storing facsimile protocol information for indicating a facsimile protocol used for communication with the calling station in correspondence with the ID information (col. 4 lines 27-49 and col. 5 lines 6-57) in order to improve the data communication apparatus for reducing communication time in communicating a communication protocol signal. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Kinoshita in storing facsimile protocol information for indicating a facsimile protocol used for communication with the calling station in correspondence with the ID information so that the control circuit adapted to cause communication based on the facsimile protocol corresponding to the ID information, as per

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teaching of Ueno, because it improves the data communication apparatus for reducing communication time in communicating a communication protocol signal.

Regarding claims 2-3, Kinoshita discloses a registration circuit (64, figure 5) for registering the ID information of a calling station and the communication protocol in accordance with an instruction from a user, wherein the ID information for identifying the calling station is telephone number information and the control circuit is adapted to updated the protocol when calling has been conducted using the telephone number information (col. 10 line 35 through col. 11 line 6 and col. 15 line 4 through col. 17 line 2).

Regarding claim 4, Ueno teaches a data communication apparatus is capable of changing with different type of modems (figure 1 and col. 5 line 18 through col. 9 line 22).

Regarding claim 5, Ueno teaches the facsimile protocol including V.21 and V.29 (figure 1). The combination of Kinoshita and Ueno differs from the claimed invention in not including V.8 and V.34, the particular of protocol used is merely a matter of design option such that V.34 is the international standard for dial up modems of up to 28,800 bits per second and V.8 is a way V.34 modems negotiate connection features and option. Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Ueno using V.8 and V.34 in the communication apparatus because it makes compatible with different protocols so that it can be widely used to communicate with other apparatus in different protocols.

Regarding claim 6, the limitations of the claim are rejected as the same reasons set forth in claim 1.

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Regarding claim 12, Kinoshita discloses the ID information is received between receiving successive calling signal (col. 14 lines 52-61).

Regarding claim 17, the limitations of the claim are rejected as the same reasons set forth in claims 2-3.

4. Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kinoshita et al. (US PAT. 5,216,517 hereinafter Kinoshita) in view of Ueno (US PAT. 5,661,568) as applied in claim 13 above and further in view of Kawaguchi (US PAT. 5,303,066).

Regarding claims 14-16, the combination of Kinoshita and Ueno differs from the claimed invention in not specifically teaching that an updating circuit to update the communication protocols stored in the memory including a counter adapted to count a predetermined time of communication performed, wherein the updating circuit updates the respective communication protocol for each communication apparatus when the counter has counted the predetermined time. However, Kawaguchi teaches means for updating a management table, i.e., updating circuit, capable of updating the respective communication protocol for each communication apparatus based on history updated information (col. 14 lines 6-66). Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Kinoshita and Ueno in having the updating circuit, as per teaching of Kawaguchi, in order to determine an optimum protocol to be used for a communication between the transmitting unit and the receiving unit based on history updated information.

Response to Arguments

5. Applicant's arguments with respect to claims 1-6, 12 and 14-17 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sawada (US PAT. 4,961,185) discloses a method for controlling a terminal equipment to determine whether a calling terminal is operating of G4 protocol or G3 protocol prior to start a transmission control procedure for image information transmission (abstract).

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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8. Any response to this final action should be mailed to:

BOX AF

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:


(703) 872-9314 (for Technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive,
Arlington, VA., Sixth Floor (Receptionist).

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Eng whose telephone number is (703) 308-9555. The examiner can normally be reached on Tuesday to Friday from 7 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Curtis Kuntz, can be reached on (703) 305-4708.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office whose telephone number is (703) 306-0377.


George Eng
Primary Examiner
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